IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 26TH OCTOBER 2006 / 4TH KARTHIKA 1928

WP(C).No. 19339 of 2003(B)

PETITIONER:

JOHN P.PUNNOOSE, PUTHUPPARAMBIL,
DEVAGIRI P.O., KANGAZHA, KOTTAYAM.

BY ADV. SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE

RESPONDENTS:

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1. **STATE OF KERALA, REPRESENTED BY THE DISTRICT COLLECTOR, KOTTAYAM.**

2. **THE TAHSILDAR (REVENUE RECOVERY), KOTTAYAM.**

BY GOVERNMENT PLEADER SRI.GEORGE KUTTY MATHEW

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/10/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON IA.NO.5639/2003 IN WP(C) NO.19339/2003

DISMISSED

26.10.2006 **SD/- C.N.RAMACHANDRAN NAIR, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE NOTICE DT.24.2.2003 ISSUED BY THE 2ND RESPONDENT.

EXT.P2:- COPY OF THE RECEIPT NO.55 DT.28.2.2003 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

/TRUE COPY/

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C.N.RAMACHANDRAN NAIR, J.

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O.P. No.19339 of 2003

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Dated this the 26th day of October, 2006.

JUDGMENT

The petitioner participated in auction sale of a property attached under Revenue Recovery Act. However, petitioner remitted only 15% and balance was not paid within the time prescribed under Section 49(3) of the Revenue Recovery Act. Therefore, the advance paid was forfeited and sale was cancelled. The prayer in the O.P. is for permission to the petitioner to remit the balance amount and for direction to the respondents to transfer the property. Government Pleader opposed the prayer by stating that the defaulter's liability is above Rs.7 lakhs whereas the sale made in 2003 was for Rs.1,10,000/-. Certainly the price of property would have gone up several times of the 2003 market value and in view of the huge amount due from the defaulter, Government would be able to sell the property and recover the arrears in accordance with Section 49(5) of the Act. I do not think there is any justification to interfere with the forfeiture order which is done strictly in accordance with the statute. The O.P. is disposed of with direction to the second respondent to advertise the property for sale in newspapers and sell the same. However, petitioner should not be disqualified from participating in the next auction sale.

C.N.RAMACHANDRAN NAIR
Judge

pms